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Message Text

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15
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R 041958Z AUG 76
FM SECSTATE WASHDC
TO AMEMBASSY TOKYO
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FOLLOWING REPEAT EC BRUSSELS 7586 ACTION SECSTATE INFO
ALL EC CAPITALS USUN DTD 02 AUG

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E.O. 11652: NA
TAGS: ETRN, UNCTAD, OECD, EEC
SUBJ: EC MARITIME TRANSPORT--UN LINER CODE

REF: (A) EC BRUSSELS 1213, (B) 75 EC BRUSSELS 6552, (C)
75 EC BRUSSELS 9822

1. MISSION WAS TOLD ON JULY 30 BY EDWARD PEARSON, A DIRECTOR WITHIN TRANSPORT DIRECTORATE GENERAL, THAT THE EC COMMISSION HAD MADE A DECISION NOT TO BEGIN COURT PROCEEDINGS AGAINST THREE MEMBER STATES (FRANCE, GERMANY AND BELGIUM) FOR HAVING INFRINGED ON THE TREATY OF ROME, PARTICULARLY ARTICLES 113 AND 116, BY SIGNING THE UN CONVENTION ON THE CODE OF CONDUCT FOR LINER CONFERENCES. PEARSON DESCRIBED THIS AS HIGH LEVEL DECISION MADE WITHIN THE COMMISSION AFTER CONSIDERABLE POLITI-
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CAL PRESSURE HAD BEEN PLACED BY THE THREE MEMBER STATES ON

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SEVERAL COMMISSIONERS. THE INFORMAL DEAL PROVIDES THAT THE MEMBER STATES WILL DO "NOTHING RASH" ON THE UN CODE (I.E., FOLLOW THEIR SIGNATURE OF THE CODE WITH RATIFICATION) AND THEIR THREE AMBASSADORS TOLD COMMISSIONER SCARASCIA NUGNOZZA THAT THEIR COUNTRIES AGREED TO WORK WITH THE COMMISSION IN A COOPERATIVE MANNER IN THE FUTURE TOWARDS COMMUNITY SOLUTIONS IN MARITIME TRANSPORT POLICY. MEANWHILE THE COMMISSION WILL STAY ITS HAND ON THE NEXT STEP IN THE TREATY INFRACTURE PROCEDURE, BRINGING ACTUAL PROCEEDINGS BEFORE THE EUROPEAN COURT OF JUSTICE.

2. PEARSON STATED THAT MOST LEGAL OBSERVERS FELT THAT THE COMMISSION HAD A VERY STRONG CASE, AS OUTLINED IN REFTELS. PEARSON WAS CERTAIN THAT A COURT DECISION WOULD HAVE RULED IN THE COMMISSION'S FAVOR, THUS CONFIRMING MEMBER STATE INFRINGEMENT OF THE TREATY, AND INCIDENTALLY BROADENING THE COMMUNITY'S COMPETENCE IN MANY AREAS OF EXTERNAL POLICY, INCLUDING SHIPPING AND TRANSPORT MATTERS. THE COMMISSION SEEMS TO HAVE DECIDED IN THE END, HOWEVER, THAT PRESSING AHEAD WITH COURT ACTION WOULD JEOPARDIZE THE DISCUSSIONS CURRENTLY TAKING PLACE BETWEEN THE NINE AND THE COMMISSION ON THE ADOPTION OF A COMMON MARITIME TRANSPORT POLICY (REPORTED IN EC BRUSSELS A-237) AND WAS SATISFIED WITH PROMISES OF COOPERATION IN THESE DISCUSSIONS AS WELL AS PLEDTES NOT TO RATIFY THE UN CONVENTION BY THE THREE MEMBER STATES.

3. PEARSON MADE CLAR THAT THE COMMISSION HAD NOT ABANDONED ITS LEGAL POSITION REPORTED IN REFTELS AND THAT IT RESERVED THE RIGHT TO TAKE THE CASE TO THE EUROPEAN COURT IN THE FUTURE. MORRIS UNQTE HABIB

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TAGS: ETRN, EWWT, FR, BE, GE, UNCTAD, OECD, EEC
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